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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Improving Commission Processes

PP Docket No. 96-17

To: The Commission

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COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.

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March 15, 1996

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.<sup>1</sup> In this proceeding, the Commission seeks input on ways to "improve the speed and quality of [its] service to the public, reduce the burden of unnecessary regulation, and use [its] resources more efficiently." Notice at ¶ 1.

AMTA applauds the FCC's determination to solicit comments from its constituents, including the industries it regulates, on this subject. In general, the Association believes that the agency already has made very substantial progress in improving its processes as they relate to regulatory matters applicable to the industries in which AMTA's members operate. Therefore, the Association's Comments are confined to a small number of areas in which further streamlining appears easily achievable.

## **I INTRODUCTION**

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz SMR operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz band. The activities of these entities are governed primarily by Part 90 of the FCC's Rules as administered by the Wireless Telecommunications Bureau ("WTB" or "Bureau"). 47 C.F.R. § 90.1 et seq. As such, they have a significant

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<sup>1</sup> Notice of Inquiry, PP Docket No. 96-17, FCC 96-50 (released February 14, 1996.) ("Notice" or "NOI").

interest in proposing regulatory changes that will facilitate their ability to compete in an increasingly complex and competitive telecommunications marketplace.

## II DISCUSSION

The instant Notice was prompted both by the Commission's natural interest in improving its procedures for its own benefit and the benefit of its constituents and by its recognition that the enactment of the Telecommunications Act of 1996<sup>2</sup> will effect profound changes in the regulatory environment for the entire telecommunications industry. Implementation of the Telecommunications Act will result in the fundamental restructuring of numerous industries subject to the Commission's jurisdiction, perhaps in ways not yet apparent even to the most insightful experts. As the FCC has recognized, those structural changes will also dictate modifications in the agency's procedural and administrative activities. Notice at ¶ 2.

AMTA also agrees with the Commission that these efforts necessarily will be ongoing. Id. It would not be possible today to anticipate all of the regulatory revisions that will be needed to implement the Act, or even to identify all existing areas which would benefit from a regulatory overhaul. The Association intends to avail itself of the Commission's invitation to use this NOI as a vehicle for advising the agency on such matters on an ongoing basis. Thus, the matters addressed in these Comments do not necessarily constitute an exhaustive list of proposed regulatory improvements.

As an initial matter, AMTA believes that the WTB has made enormous progress in recent years in reducing the regulatory burden imposed on those Part 90 services represented within

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<sup>2</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("Telecommunications Act").

the Association.<sup>3</sup> Adoption of electronic filing procedures, the elimination of end user licensing, the elimination of loading requirements, and use of greatly simplified "mass assignment" procedures are but a few of the areas in which the Bureau's staff has worked with its constituent industries to find appropriate solutions to unnecessary regulatory burdens. Because the Bureau has been generally responsive to both formal and informal suggestions regarding these matters, the Association is pleased to note that there are only a small number of immediately identifiable processes in which additional improvements might be achievable.

Moreover, AMTA agrees, first, that communications between the Bureau and the public is essential to promoting a smooth regulatory process, and, second, that, for the most part, the Bureau deserves good marks in this area. As noted in the NOI, the WTB has made an effort to meet with and solicit input from the public. Notice at ¶ 14. Its staff in Gettysburg, which interacts on a daily basis with a very large number of licensees, applicants, and their representatives, is particularly noteworthy for their responsiveness and helpfulness. The Association is concerned, however, that the wide range of matters for which the Bureau has assumed responsibility is likely to reduce staff participation in informal interaction with the public, and will make it increasingly difficult to secure their input on any but the highest level, most time-pressing matters. It hopes that the FCC's recognition of the importance of regular

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<sup>3</sup> The Association remains concerned, however, that much of this progress may be undone by the Commission's decision to classify all interconnected, heretofore private carrier systems as Commercial Mobile Radio Service ("CMRS"), irrespective of the size of the operation or the scope of its "public" offering. Second Report and Order, GN Docket No. 93-252, 9 FCC Rcd 1411 (1994). Depending on the degree of forbearance ultimately adopted by the FCC, many, previously minimally regulated, entities may find themselves subject to a much broader panoply of common carrier obligations.

contact between the agency and its constituents will prompt the Commission to place a high priority on this aspect of its service to the public.

As noted previously, the Commission has already taken substantial steps to eliminate unnecessary, redundant, or overly burdensome requirements in the areas of commercial, specialized wireless services represented by AMTA. However, the Association does recommend that the FCC expand its conditional licensing processes, as set out in Rule Section 90.159(b), to include coordinated frequencies in the 470 MHz, 800 MHz and 900 MHz bands. Conditional licensing permits applicants to commence new or modified operation of a station upon submission to the Commission of a properly coordinated application. The applicant may continue operating pursuant to this authority for up to one hundred and eighty (180) days, provided specified conditions relating to aviation, environmental, astronomy and monitoring protection are satisfied, and unless the application is returned by the FCC as unacceptable for filing during that period.

Conditional licensing is responsive to the needs of the agency and its public. It enables parties to place stations in operation on a more immediate basis, once the appropriate coordinator has determined that use of the frequency(s) is not expected to result in interference. The ability to obtain an "instantaneous" authorization significantly reduces the number of requests for Special Temporary Authorization ("STA") and status inquiries regarding pending applications. This provision is particularly useful in the license assignment and transfer process where timing of FCC approval often is critical.

The current rules permit conditional licensing for all coordinated Part 90 bands except 470 MHz, 800 MHz and 900 MHz despite the fact that frequency assignments in those bands

uniquely are governed by strict system loading and mileage separation criteria. AMTA is not aware of any substantive, procedural or public policy basis for this exclusion, and encourages the FCC to extend conditional authority to all coordinated Part 90 frequencies.

Finally, the Association has considered the Commission's proposal to privatize the licensing process "in organizations that have the ability to perform processes at lower cost, faster and more effectively than the Wireless Bureau. Notice at ¶ 18. Although AMTA will maintain an open mind on this concept, recognizing that the FCC faces growing constraints on its resources, it also must express serious reservations about that proposal. While it is possible that the agency might be able to identify organizations with the capabilities described above, it also is imperative that the licensing function remain scrupulously impartial and fair-handed, both in actuality and in appearance. That is the case today. If that authority is "outsourced", it is not clear that applicants would continue to enjoy the protection afforded by the Administrative Procedures Act, as incorporated in the Commission's Rules. AMTA also is concerned that private licensing might combine the worst of both worlds from the perspective of its members, with substantial authority vested in an organization other than the unquestionably objective, disinterested Federal Government, but without those organizations assuming ultimate responsibility for their actions in terms of liability.

The Association appreciates the Commission's desire to minimize its administrative responsibilities, including those relating to the licensing process. AMTA supports the agency's efforts to move from site-specific to geographic licensing frameworks when possible as one significant step in reducing the volume of licenses the FCC staff must process. Because AMTA is not persuaded that the privatization of the licensing function is in the public interest, it urges

the FCC first to assess the effectiveness of internal administrative and procedural approaches to reducing its licensing workload.

### **III CONCLUSION**

For the reasons described herein, AMTA recommends that the Commission adopt conditional licensing procedures for coordinated frequencies in the 470 MHz, 800 MHz, and 900 MHz bands.

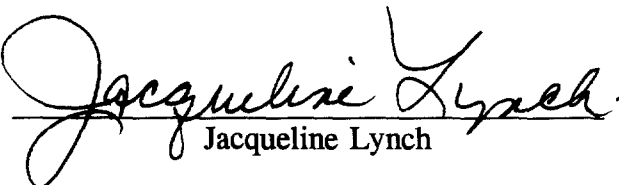
## **CERTIFICATE OF SERVICE**

I, Jacqueline Lynch, a secretary in the law offices of Lukas, McGowan, Nace & Gutierrez, Chartered, do hereby certify that I have on this 15th day of March, 1996, had a copy of the foregoing COMMENTS OF THE AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC. hand-delivered to the following:

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